United Nations A/66/143

General Assembly

Distr.: General
23 June 2011

Original: English

Sixty-sixth session

Request for the inclusion of an item in the provisional agenda of the sixty-sixth session

International residual mechanism for criminal tribunals

Note by the Secretary-General

1. The Security Council, by its resolution 1966 (2010), decided to establish the international residual mechanism for criminal tribunals with two branches, which should commence functioning on 1 July 2012 for the International Criminal Tribunal for Rwanda and on 1 July 2013 for the International Tribunal for the former Yugoslavia, and to that end adopted the statute of the mechanism contained in the annex to the resolution.

2. By paragraph 13 of the resolution, the Security Council requested the Secretary-General to implement the resolution and to make practical arrangements for the effective functioning of the mechanism from the first commencement date (1 July 2012) and to initiate no later than 30 June 2011 the procedures for the selection of the roster of judges of the mechanism, as provided in its statute.

3. Article 8, paragraph 1, of the statute provides that the mechanism shall have a roster of 25 independent judges, not more than two of whom may be nationals of the same State.

4. Article 10, paragraph 1, of the statute provides that the judges of the mechanism shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges, preferably from among persons with experience as judges of the International Tribunal for the former Yugoslavia or the International Criminal Tribunal for Rwanda, from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within 60 days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 9, paragraph 1, of the statute;

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(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received, the Council shall establish a list of not fewer than 30 candidates, taking due account of the qualifications set out in article 9, paragraph 1, and adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list, the General Assembly shall elect 25 judges of the mechanism. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should more than two candidates of the same nationality obtain the required majority vote, the two who received the highest number of votes shall be considered elected.

5. In accordance with article 10, paragraph 3, of the statute, the judges of the mechanism shall be elected for a term of four years and shall be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and of the General Assembly.

6. In addition, pursuant to paragraph 16 of resolution 1966 (2010) and article 32, paragraph 1, of the statute of the mechanism, the President of the mechanism shall submit an annual report to the Security Council and to the General Assembly.

7. It is therefore necessary for the General Assembly, during its sixty-sixth session, to elect the judges for the mechanism so that the mechanism can begin its work on its first commencement date (1 July 2012). In addition, the Assembly will be required to consider the annual report of the mechanism and to adopt appropriate budgetary and financial arrangements for the mechanism's work.

8. The Secretary-General therefore deems it necessary to include in the provisional agenda of the sixty-sixth session of the General Assembly, pursuant to rule 13 of the rules of procedure of the Assembly, an agenda item entitled "International Residual Mechanism for Criminal Tribunals".